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P/2167-229

## THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

J. Robert Hitchings et al.

Serial No.:

09/828,616

Filed: April 6, 2001

Date: October 19, 2001

Group Art Unit: Not Yet Assigned

Examiner: Not Yet Assigned

For: LIKE KIND EXCHANGE SYSTEM AND METHOD

**Box DAC** 

Asst. Commissioner for Patents

Washington, D.C. 20231

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JAN 2 3 2002

#### PETITION UNDER 37 C.F.R. 1.47

OFFICE OF PETITIONS

Sir:

Inventors J. Robert Hitchings, Todd Orlich and Edward Bossong hereby petition under 37 C.F.R. §1.47(a) on behalf of themselves and on behalf of inventor Joseph Schreiner, who refuses to sign the application, that the application be accepted.

Accompanying this petition is a declaration by Robert A. Stewart together with proof of pertinent facts. Mr. Stewart is an employee of The Chase Manhattan Bank, the assignee of the present application, and is responsible for maintaining Chase's patent portfolio. The attached declaration describes the diligent efforts conducted by the assignee in attempting to have the non-signing inventor join in the application, and provides the requisite proof of pertinent facts therefore.

The last known address of the non-signing inventor is:

Joseph Schreiner 1020 Pennsylvania Avenue Island Park, New York 11558

Enclosed is Check No. 6956 for \$1,700.00 which includes fees for the Late Declaration, Petition and Four-month Extension of Time. In the event payment of any fee is inadvertently not enclosed, or if any additional fee during the prosecution of this case is not paid, the Patent

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and Trademark Office is authorized to charge the underpayment to Deposit Account No. 15-0700.

The inventors and/or the assignee, having complied with the requirements of 37 U.S.C. §116, second paragraph, and 37 C.F.R. §1.47(a), respectfully request that this petition be granted.

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as First Class Mail in an envelope addressed to: Asst. Commissioner for Patents, Washington, D.C. 20231, on October 19, 2001:

Respectfully submitted,

Brendan J. Kennedy

Name of applicant, assignee or Registered Representative

October 19, 2001

Date of Signature

Brendan J. Kennedy/

Registration No.: 41,890 OSTROLENK, FABER, GERB & SOFFEN, LLP

1180 Avenue of the Americas

New York, New York 10036-8403

Telephone: (212) 382-0700

BJK:gl

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P/2167-229

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

:

Robert J. Hitchings, et al.

Date: October 17, 2001

Serial No.

09/828,616

Group Art Unit: 2161

Filed

April 6, 2001

Examiner: Unassigned

For

LIKE KIND EXCHANGE SYSTEM

Assistant Commissioner for Patents Washington, D.C. 20231

## <u>DECLARATION OF ROBERT STEWART</u> IN SUPPORT OF PETITION UNDER 37 C.F.R. 1.47

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JAN 2 3 2002

Sir:

OFFICE OF PETITIONS

I, Robert A. Stewart, declare as follows:

- 1. I am an employee of The Chase Manhattan Bank ("Chase"), the assignee of the present application, and my duties include maintaining Chase's Patent Portfolio.
- 2. I am attorney registered to practice before the United States Patent and Trademark Office (Reg. No. 45,683).
- 3. I have been administratively responsible for obtaining the inventor's signatures on the Declaration and Assignment documents in connection with this application.
- 4. At the time of the invention, which is the subject matter of this application (Serial No. 09/828,616), inventor Joseph Schreiner was an employee of Chase. The invention resulted from work performed for Chase by several inventors, including inventor Joseph Schreiner, as employees of Chase. As an employee of Chase, Mr. Schreiner was, and still is, under an obligation to assign all of his rights in the invention to Chase. Mr. Schreiner is currently an employee under long term disability for a physical ailment.

- 5. On or about April 15, 2001, at my direction, Edward Bossong (co-inventor) forwarded a copy of the specification, claims, and drawings as filed with the U.S. Patent and Trademark Office on April 6, 2001 to Mr. Schreiner. Mr. Bossong also forwarded an assignment form and declaration to Mr. Schreiner. Mr. Bossong indicated to me that he requested that Mr. Schreiner execute the assignment form and declaration once he had a reasonable time to review the application. On or about June 7, 2001, Mr. Schreiner responded to Mr. Bossong via telephone. During this telephone call, Mr. Schreiner indicated to Mr. Bossong that he refused to execute the assignment form or declaration.
- 6. On or about June 15, 2001, Mr. Bossong informed me that Mr. Schreiner refused to execute either the assignment form or declaration.
- 7. On July 6, 2001, I sent a letter to Mr. Schreiner enclosing a copy of the specification, claims, and drawings for this application along with an assignment form and declaration. In the letter, I requested that Mr. Schreiner execute the assignment form and declaration, after he had a reasonable opportunity to review the application.
- 8. On July 30, 2001, I sent a second letter to Mr. Schreiner enclosing a copy of the specification, claims, and drawings for this application along with an assignment form and declaration. In the letter, I again requested that Mr. Schreiner execute the assignment form and declaration, after he had a reasonable opportunity to review the application.
- 9. On August 2, 2001, I spoke with Mr. Schreiner via telephone. During this telephone conversation, Mr. Schreiner continued to refuse to sign either the declaration or assignment form.
- 10. U.S. Patent Application Serial No. 09/828,616 is based on and claims priority to Provisional Patent Application Serial No. 60/195,056.

- 17. To date, inventor Joseph Schreiner has refused to execute the Declaration and Assignment forms with respect to this application.
- 18. I further declare that all statements made herein are of my own knowledge, are true, and that all statements made on information or belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of this declaration, this application or any registration resulting therefrom.

Dated: October 17, 2001

Pohert A Stewar

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JAN 2 3 2002



Robert A. Stewart

Assistant Vice President and Coun Legal Department



July 6, 2001

## Via Airborne - #4222903624

Joseph Schreiner 1020 Pennsylvania Avenue Island Park, NY 11558

Re:

P2167-229; CN#275; CC#12495; Family#99678;

Like Kind Exchange System and Method

I'm writing to you to address your concerns regarding the execution of the assignment form and declaration for the above-referenced patent application (LKE application).

In mid April of 2001, Edward Bossong forwarded a copy of the LKE application along with an assignment form and declaration to your attention. Mr. Bossong requested that you execute the assignment form and declaration once you had a reasonable time to review the LKE application. In response, you conveyed some concerns regarding ownership rights in the LKE application and additional compensation for your contribution to the conception of the invention.

I have attached the J.P.Morgan Chase, <u>Intellectual Property And Confidential And Proprietary Information Policy</u>. This is substantively identical to the policy that was in place during your employment with The Chase Manhattan Bank. The policy explicitly states, "All inventions, discoveries, developments, concepts, ideas, processes or works, written or otherwise, whether or not they can be patented or copyrighted, that you develop alone or with others ("Invention(s)"), during your employment with J.P.Morgan Chase, directly or indirectly related to the business of J.P.Morgan Chase are owned by J.P.Morgan Chase and are considered J.P.Morgan Chase Inventions." Additionally, the policy states, "You further...agree to deliver any documents as may be requested to assure, record or perfect your assignment of the J.P.Morgan Chase Inventions to J.P.Morgan Chase."

The policy entitles no employees or former employees an ownership interest to any inventions conceived during their employment with The Chase Manhattan Bank if those inventions, directly or indirectly, related to the business of the Bank. Additionally, no employee or former employee is entitled to any additional compensation solely for his or her contribution to any inventions owned by The Chase Manhattan Bank. We therefore request, pursuant to the attached policy, that you execute the assignment form and declaration Edward Bossong forwarded to your attention.

I have attached another copy of the LKE application. I hope after you have had a reasonable opportunity to review the application and the above policy you will execute the assignment form and declaration. Please return the forms to my attention at the address below. For your convenience, I have enclosed a self-addressed prepaid Airborne envelope to facilitate the delivery of the documents.

If you have any questions or concerns, please do not hesitate to call me.

Sincerely,

Robert A. Stewart

RAS/pg Atts. **RECEIVED** 

JAN 2 3 2002



Robert A. Stewart Assistant Vice President and Counsel Legal Department



July 30, 2001

## Via Airborne - #6826624884

Joseph Schreiner 1020 Pennsylvania Avenue Island Park, NY 11558

Re:

P2167-229; CN#275; CC#12495; Family#99678;

Like Kind Exchange System and Method

Dear Mr. Schreiner:

I'm writing to you for the second time (see attached letter from J.P. Morgan Chase to Joseph Schreiner dated July 6, 2001) to address your concerns regarding the execution of the assignment form and declaration for the above-referenced patent application (LKE application).

In mid April of 2001, Edward Bossong forwarded a copy of the LKE application along with an assignment form and declaration to your attention. Mr. Bossong requested that you execute the assignment form and declaration once you had a reasonable time to review the LKE application. In response, you conveyed some concerns regarding ownership rights in the LKE application and additional compensation for your contribution to the conception of the invention.

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The policy entitles no employees or former employees an ownership interest to any inventions conceived during their employment with The Chase Manhattan Bank if those inventions, directly or indirectly, related to the business of the Bank. Additionally, no employee or former employee is entitled to any additional compensation solely for his or her contribution to any inventions owned by The Chase Manhattan Bank. We therefore request, pursuant to the

attached policy, that you execute the assignment form and declaration Edward Bossong forwarded to your attention.

I have attached another copy of the LKE application. I hope after you have had a reasonable opportunity to review the application and the above policy you will execute the assignment form and declaration. Please return the forms to my attention at the address below. For your convenience, I have enclosed a self-addressed prepaid Airborne envelope to facilitate the delivery of the documents.

If you have any questions or concerns, please do not hesitate to call me.

Sincerely

Robert A. Stewart

RAS/pg Atts.

JAN 2 3 2002
OFFICE OF PETITIONS



UNITED STATES OF AMERICA COMBINED DECLARATION AND POWER OF ATTORNEY FOR PATENT APPLICATION			OFGS FILE NO. P/2167-229		
COUNTRY	APPLICATION NUMBER	DATE OF FILM (day, month, yea	- [		
				YES NO	
				YES NO	
				YES NO	
				YES NO	
				YES NO	
				YES NO	
				YES NO	
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				YES NO	
the application or any patent issued the FULL NAME OF THIRD JOINT INVENTOR JOE SCHREINER		INVENTOR'S SIGNATURE	D	ATE	
RESIDENCE (City and either State or Fore	sing Country)		COUNTRY OF	CITIZENSHIP	
RESIDENCE (City and early state of Fort	ign Country)				
POST OFFICE ADDRESS					
FULL NAME OF FOURTH JOINT INVENTOR, IF ANY Edward BOSSONG		INVENTOR'S SIGNATURE	D	DATE	
RESIDENCE (City and either State or Foreign Country)			COUNTRY OF CITIZENSHIP		
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FULL NAME OF FIFTH JOINT INVENTOR,	FANY	INVENTOR'S SIGNATURE	D.	ATE	
RESIDENCE (City and either State or Foreign Country)		<u></u>	COUNTRY OF	CITIZENSHIP	
POST OFFICE ADDRESS					
FULL NAME OF SIXTH JOINT INVENTOR,	IF ANY	INVENTOR'S SIGNATURE	D.	ATE	
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JAN 2 3 2002

OFFICE OF PETITIONS

POST OFFICE ADDRESS

# UNITED STATES OF AMERICA COMBINED DECLARATION AND POWER OF ATTORNEY FOR PATENT APPLICATION

OFGS FILE NO. P/2167-229

	irst and sole inventor (if only one na or which a patent is sought on the in	ame is listed below) or a joint evention emitled:	p are as stated below next to my name; that I inventor (if plurs) inventors are named) of the
the specification of which is attached			
was filed on	<del>-</del>		onal patent
	and was amended on		· · · · · · · · · · · · · · · · · · ·
amendment referred to above.  I acknowledge the duty to disclose §1.56.  I hereby claim priority benefits un	all information known to be materially all information known to be materially all information known to be materially also identified below and have also identified below.	ial to patemability in accordar	, including the claims, as amended by any nee with Title 37, Code of Federal Regulations (s) for patent or inventor's certificate or United patent or inventor's certificate having a filing
Prior Foreign or Provisional Applicat	ion(s)		
COUNTRY	APPLICATION NUMBER	DATE OF (day, mun	
United States of America	60/195,056	April 6, 2000	
			YES NO
			YES NO
Title 35, United States Code, §112, I	acknowledge the duty to disclose in	formation which is material of the of the prior application and ILING	the manner provided by the first paragraph of o patentability as defined in Title 37, Code of the national or PCT international filling date of STATUS (patented, pending, abandoned)
18,510; Jerome M. Berliner - Reg. N Reg. No. 22,400; Steven I. Weisburd - Reg. No. 30,173; William O. Gray.	o. 18,653; Robert C. Faber - Reg. 1 - Reg. No. 27,409; Max Moskowit III - Reg. No. 30,944; Louis C. Do neys with full power of substitution	No. 24,322; Edward A. Meili iz - Reg. No. 30,576; Stepher ujmich - Reg. No. 30,625, Do and revocation to prosecute th	bers of the firm, Samuel H. Weiner - Reg. No. man - Reg. No. 24,735; Stanley H. Lieberstein A. Soffen - Reg. No. 31,063; James A. Findouglas A. Miro - Reg. No. 31,643, and Michanis application, to transact all business in the
SEND CORRESPONDENCE TO:	OSTROLENK, FABER, GERB 8 1180 AVENUE OF THE AMERIC NEW YORK, NEW YORK 10036 CUSTOMER NO. 2352	SOFFEN, LLP DIRECT	T TELEPHONE CALLS TO: 82-0700
true; and further that these statements imprisonment, or both, under Section the application or any patent issued th	were made with the knowledge that 1001 of Title 18 of the United State creon.	willful false statements and test code, and that such willful	made on information and belief are believed to the like so made are punishable by fine or false statements may jeopardize the validity of
J. Robert HITCHINGS	OR INVENTOR'	S SIGNATURE	DATE
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UNITED STATES OF AMERICA COMBINED DECLARATION AND POWER OF ATTORNEY FOR			P/2167-229		
	TENT APPLICATION				
COUNTRY	APPLICATION NUMBER	DATE OF FILING (day, month, year)		PRIORITY CLAIMED UNDER 35 U.S.C. 119	
				YES NO	
				YES NO	
				YES NO	
				YES NO	
				YES NO	
				YES NO	
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				YES NO	
				YES NO	
I hereby declare that all statements m to be true; and further that these state or imprisonment, or both, under Sect validity of the application or any pate	ements were made with the knowledge tion 1001 of Title 18 of the United S ent issued thereon.	ge that willful false statements tates Code and that such willfu	and the like	so made are punishable by fine ments may jeopardize the	
Joe SCHREINER	r, if any	INVENTOR'S SIGNATURE	DATE		
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JAN 2 3 2002

COMBINED DECLARATION AND POWER OF ATTORNEY FOR PATENT APPLICATION

P/2167-229

As a below named inventor, I here believe that I am the original, first and matter which is claimed and for which LIKE KIND EXCHANGE	l sole inventor (if only 1 a patent is sought on	one name is listed be the invention entitled	low) or a joint inventor	re as stated below r (if plural invento	next to my name: that I verily are named) of the subject
the specification of which is attached	hereto, unless the follo	wing box is checked:			
was filed on				nal patent	
application number				•	
I hereby state that I have reviewed amendment referred to above. I acknowledge the duty to disclose §1.56. I hereby claim priority benefits una provisional application(s) listed below that of the application on which priori	all information known for Title 35, United State and have also identifi	to be material to pate	entability in accordance	: with Title 37, Co	ode of Federal Regulations, intor's certificate or United States
Prior Foreign or Provisional Applicati					TO LANGUAGE DATE
COUNTRY	APPLICATIO	N NUMBER	DATE OF FILING (day, month, year)		PRIORITY CLAIMED UNDER 35 U.S.C. 119
United States of America	60/195,056		April 6, 2000		YES X NO
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United States Code, §112, I acknowled Regulations, §1.56 which became avail application.  UNITED STATES  APPLICATION NUMBER	age are duty as discussed	g date of the prior app DATE OF FILING (day, month, year)	olication and the nation	al or PCT interna	STATUS  ed. pending, abandoned)
NEW	18,653; Robert C. Fab No. 27,409: Max Mos . 30,944; Louis C. Dujer of substitution and re ive all correspondence STROLENK, FABE LVENUE OF THE AM YORK, NEW YORK OMER NO. 2352 the herein of my own key ere made with the kno OOI of Title 18 of the later	cer - Reg. No. 24,322; kowitz - Reg. No. 30, jmich - Reg. No. 30,6 evocation to prosecut  R. GERB & SOFFE  GERICAS 10036-8403  nowledge are true and owledge that willful fi	Edward A. Meilman - 576; Stephen A. Soffer 25, Douglas A. Miro - e this application, to tra  N, LLP DIRECT T (212) 382-0700  that all statements manalse statements and the nd that such willful fal	Reg. No. 24,735; a - Reg. No. 31,00 Reg. No. 31,643, unsact all business ELEPHONE CAI de on information like so made are	Stanley H. Lieberstein - Reg. 63; James A. Finder - Reg. No. and Michael J. Scheer - Reg. in the Patent & Trademark  LLS TO:  and belief are believed to be punishable by fine or jeopardize the validity of the
		C			
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			YES NO	
		········	YES NO	
			YES NO	
FULL NAME OF THIRD JOINT INVENTOR, IF ANY JOE SCHREINER	INVENTOR'S SIGNATURE		DATE	
RESIDENCE (City and either State or Foreign Country)		COUNTRY OF CITIZENSHIP		
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RESIDENCE (City and either State or Foreign Country)		COUNTRY	OF CITIZENSHIP	
POST OFFICE ADDRESS				

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JAN 2 3 2002

COMPLED DECLIGITION			· '	F/210/-229		
believe that I am the original, first and matter which is claimed and for which	by declare that: my residence, post office sole inventor (if only one name is listed a patent is sought on the invention entit SYSTEM AND METH	below) or a prior inventor (if	nal inventors a	t to my name; that I verily re named) of the subject		
the manification of which is attached l	nereto, unless the following box is check	754.	E)			
•	as United States patent Application ?	1.0	\$2.			
	and was amended on	SALA AUCT	are in			
		<del></del>	م دستمام مام م	5 mm on d -1 b - mm o		
I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.  I acknowledge the duty to disclose all information known to be material to patentability in accordance with Title 37, Code of Federal Regulations, §1.56.  I hereby claim priority benefits under Title 35, United States Code §119 of any foreign application(s) for patent or inventor's certificate or United States provisional application(s) listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:						
Prior Foreign or Provisional Application						
COUNTRY	APPLICATION NUMBER	DATE OF FII (day, month, )		PRIORITY CLAIMED UNDER 35 U.S.C. 119		
United States of America	60/195,056	April 6, 2000		YES X NO		
				YES NO		
				YES NO		
each of the claims of this application is United States Code, §112, I acknowled	the 35, United States Code, §120 of any is not disclosed in the prior United States age the duty to disclose information while lable between the filing date of the prior DATE OF FILL (day, month, yei	application in the manner pro ch is material to patentability a rapplication and the national o	vided by the first is defined in Title or PCT internation	paragraph of Title 35, 37, Code of Federal		
AT LICATION NOMBER	(day, monal, ye	<i>u)</i>	(patertea, )	sentang, aparatonear		
	M		-			
Thereby appoint customer no. 2352 OSTROLENK, FABER, GERB & SOFFEN, LLP, and the members of the firm, Samuel H. Weiner – Reg. No. 18,510; Jerome M. Berliner - Reg. No. 18,653; Robert C. Faber - Reg. No. 24,322; Edward A. Meilman - Reg. No. 24,735; Stanley H. Lieberstein – Reg. No. 22,400; Steven I. Weisburd - Reg. No. 27,409; Max Moskowitz - Reg. No. 30,576; Stephen A. Soffen - Reg. No. 31,063; James A. Finder - Reg. No. 30,173; William O. Gray, III - Reg. No. 30,944; Louis C. Dujmich - Reg. No. 30,625, Douglas A. Mito - Reg. No. 31,643, and Michael J. Scheer - Reg. No. 34,425, as attorneys with full power of substitution and revocation to prosecute this application, to transact all business in the Patent & Trademark Office connected therewith and to receive all correspondence.						
SEND CORRESPONDENCE TO: OSTROLENK, FABER, GERB & SOFFEN, LLP DIRECT TELEPHONE CALLS TO:  1180 AVENUE OF THE AMERICAS (212) 382-0700  NEW YORK, NEW YORK 10036-8403  CUSTOMER NO. 2352						
I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.						
J. Robert HITCHINGS  DATE  DATE  DATE						
RESIDENCE (City and either State or Foreign Country)  O COUNTRY OF CITIZENSHIP						
LARCHMONT, New York						
5 Beverly Pl Larchmont, NY 10538						
FULL NAME OF SECOND JOINT INVENTO TODD ORLICH	R (P ATY) / INVENTOR'S STO	JNATURE /	DATE			
RESIDENCE (City and either State or For	eign Country)	CC	OUNTRY OF CITIZE	NSHIP		
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